

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6936

In Re: MILTON J. TAYLOR,

Petitioner.

On Petition for Writ of Mandamus. (CA-99-615-AM)

Submitted: October 20, 1999

Decided: November 9, 1999

Before WILKINS, LUTTIG, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Milton J. Taylor, Petitioner Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Milton Taylor, a federal prisoner, petitions for a writ of mandamus. Taylor contends that his sentence exceeds the statutory maximum attendant to his crime of conviction because when his three-year term of supervised release is added to his 27-month term of imprisonment, the aggregate sentence exceeds the five-year maximum sentence. See 18 U.S.C. § 1708 (1994). He seeks an order compelling the district court to grant relief on his sentence.

Mandamus relief is available only when the petitioner has a clear right to the relief sought. See In re First Fed. Sav. & Loan Ass'n, 860 F.2d 135, 138 (4th Cir. 1988). Further, mandamus is a drastic remedy and should only be used in extraordinary situations. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976); In re Beard, 811 F.2d 818, 826 (4th Cir. 1987). Mandamus may not be used as a substitute for appeal. See In re United Steelworkers, 595 F.2d 958, 960 (4th Cir. 1979).

To the extent that Taylor seeks review of district court's non-dispositive orders in his pending habeas corpus petition filed pursuant to 28 U.S.C. § 2241 (1994), his mandamus petition must be denied. See id. Further, Taylor does not have a clear right to the relief sought. The sentencing court clearly had the authority to impose a term of supervised release over and above any term of imprisonment, see 18 U.S.C.A. § 3583(a) (West Supp. 1999), so Taylor's claim of error is meritless.

We deny the mandamus petition and Taylor's "Motion for an Emergency Alternative Writ." Further, although we grant leave to proceed in forma pauperis, we dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.

PETITION DENIED